UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 November 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,6,14-16,20 and 25-32* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,6,14-16,20 and 25-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some *   c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/21/2005 has been entered.

2.   Claims 1,6, 14-16, 20, 25-32 are currently pending.

3.   Applicant alleges "Hu fails to disclose or suggest redirecting by that web server at least one browser request from that web server to another web server". Examiner respectfully disagrees, because Hu discloses a system for distributing user requests among plurality content servers 106 and 102. For example request manager 102 which also can act as a content server receives request and redirects that request to another content server (the same content server 102 who receives the request is the one that redirects the request to another content server (see col. 5, lines 3-8 and col. 12, lines 35-42).

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

5.   Claims 1, 6-16, 20, 26 and 31 are rejected under 35 U.S.C. 102(e) as being

anticipated by Hu U.S. Patent No. 6,173,322[hereinafter Hu]

As per claim 1, Hu discloses a method for distributing browser web page requests

among two or more servers, comprising:

receiving web page requests at a first web server (see col. 5, lines 29-33 and col. 13,

lines 10-21);

determine whether a predetermined condition exist at the first web server (i.e. failed or

overloaded)(see col. 15, lines 11-16); and

if the predetermined condition exists, then redirecting by the first server web server at

least one of the web page requests from the first web server to another web servers

for servicing (see col. 6, lines 11-22 and col. 4, line 66 to col. 5, line 8).

In considering claim 6, Hu discloses the method of claim 1 wherein the determining

comprises monitoring the system load of the host server (see col. 15, lines I-16).

In considering claim 7, Hu discloses the method of claim 1 wherein the predetermined

condition comprises a CPU utilization or memory or failure etc (see col. 9, lines 19-46).

In considering claim 8 Hu discloses the method of claim 1 wherein the predetermined

condition comprises a CPU utilization or memory or failure etc (see col. 9, lines 19-46).

In considering claim 9, HU discloses the method of claim 1, wherein the redirecting step comprises redirecting only if the request is for one of a predetermined set of web pages (i.e., dynamic pages or static pages) (see fig. 6 and col. 12, lines 10-42).

In considering claim 10, Hu discloses the method of claim 9, wherein the predetermined set is predetermined by list of web pages included in the web page included in the set (see fig. 6, and col.12, lines 18-66).

In considering claim 11, Hu discloses the method of claim 9, wherein the predetermined set is predetermined by a list of web pages excluded from the set (see col. 12, lines 10-42).

In considering claim 12, Hu discloses the method of claim 1, wherein the redirecting step comprises redirecting only if the request is for web page that does not have state (i.e., web pages not cached) (see fig. 6, and col. 12, lines 10-42 and col. 13, lines 1-21).

In considering claim 13, Hu discloses the method of claim 12, wherein the redirecting step comprises:

determining whether the web page is included in a list of web pages that have state (i.e., list of cached web pages) (see fig. 6, and col. 12, lines 10-42).

In considering claim 14, Hu discloses the method of claim 1, wherein the predetermined

condition comprises failure (see col. 11, lines 60-65 and col. 12, lines 10-42).

As per claim 15, Hu discloses a system for servicing browser web pages requests,

comprising:

a first web server operable to redirect from the first web server to a second web server

a web page request made of the first web server if a predetermined condition is

determined to exist the first web servers (see fig. 2 and col. 5, lines 520-54 and col. 15,

lines 11-16); and

a manager for monitoring the first web server to determine if the predetermined

condition exists at the first web server and for monitoring the second web server to

determine capacity for serving the redirected web page request(see col. 6, lines 11-22

and col. 4, line 66 to col. 5, line 8).

In considering claim 16, Hu discloses the system of claim 15, wherein the web server is

operable to transfer only for predetermined web pages   (see fig. 6 and col. 12, lines

10-42).

As per claim 20, Hu discloses a method for allocating web page requests comprising:

distributing web page requests for servicing by a first web server (see col. 5, lines 520-

54 and col. 15, lines 11-16);

monitoring a load metric of the first web server (failed or overloaded) (see col. 15, lines 11-16); and

redirecting by the first web server at least some of the web page requests from the first web server to another web server, if the load metric exceeds a threshold until the load metric no longer exceeds the threshold(see col. 6, lines 11-22 and col. 4, line 66 to col. 5, line 8).

In considering claim 25, Hu discloses a method of claim 20 wherein distributing is accomplished by an interceptor located on a first host, and redirecting is initiated by an agent (redirection module 212) running on a second host which also hosts the first web server, and wherein the agent is in communication with web server interface and instructs the web server interface to cause the web server to redirect (see col. 5, lines 20-54).

In considering claim 26, Hu discloses a method for serving browser web page requests, comprising:

distributing browser web page requests to a first web server (see col. 5, lines 5, 20-54 and col. 15, lines 11-16);

determining whether predetermined condition exists at the first web server (see col. 5, lines 20-54 and col. 15, lines 10-60); and

if the predetermined condition exists, then redirecting by the first server at least one of the browser requests from the first web server to another web servers (col. 4, line 66 to

col. 5, line 8 and col. 5, lines 20-54), the redirection initiated by an agent (redirection

module 212) running on the same host as the server, and

distributing fewer browser web page requests to the first web server at least until the

predetermined condition is determined to no longer exists at the first web server(see

col. 6, lines 11 -22, col. 4, line 66 to col. 5, line 8 and col. 5, lines 20-54).

As per claim 31, Hu discloses a system for responding to browser requests for web

pages, comprising:

a plurality of web servers each web server operable to redirect a received web page

request to another of the plurality of web servers;

a distributor of web page requests operable to distribute web page requests among the

plurality of web servers(col. 4, line 66 to col. 5, line 8 and col. 5, lines 20-54); and

a central manager for monitoring the web servers to determine if a predetermined

condition exists at one or more of the web servers, and to command each web server at

which the predetermined condition exists to redirect received web page requests(see

col. 6, lines 11-22 and col. 4, line 66 to col. 5, line 8).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 27, 28, 29, 30, and 32 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Hu in view of Cieslak et al., U.S. Patent No. 5,475,813[hereinafter

Cieslak]

As per claim 27, Hu discloses a method for servicing browser web page requests,

comprising:

monitoring a respective requests associated with each of a plurality of web servers to

determine if a predetermined condition exists at any of the web servers(see col. 5, lines

520-54 and col. 15, lines 11-16);

if the predetermined condition exists at any of the web servers , then redirecting by the

first server at least one web page request from that first web server to either an

interceptor operable to allocate web page request among the plurality of web servers or

another of the web servers (col. 4, line 66 to col. 5, line 8 and col. 5, lines 20-54), and

monitoring web page requests received at that redirecting web server and if no web

page request has been received after a time then redirecting web server(see col. 6,

lines 11 -22, col. 4, line 66 to col. 5, line 8 and col. 5, lines 20-54).

Hu is silent regarding: monitored requests include web page requests queue.

Nonetheless, the predetermined condition comprises request queue delay length

greater than a predetermined number would have been an obvious modification to Hu's

system as evidenced by Cieslak. Cieslak, discloses performance characteristics or QOS

parameters might be measured in a number of different ways such as measuring server

response time to determine the status of the servers or how the servers are loaded (see

the abstract and col. 5, lines 15-30). Additionally, Hu teaches the monitoring module can

be configured to fit users needs. Hence one skilled in the art presented with teaching of

Hu, would have been motivated to check if the request queue delay length of the server

is greater than a predetermined number or certain threshold to dynamically redirect

requests to other servers Therefore, it would have been obvious to one having ordinary

skill in the art at the time of the invention to utilize QOS parameters such determining

number of requests in the queue delay as suggested by Cieslak in order to provide

dynamic redirection and overload protection.

As per claim 29, Hu discloses a method for responding browser web page requests

comprising:

distributing web page requests among a plurality of web servers (see col. 5, lines 520-

54 and col. 15, lines 11-16);

monitoring a respective requests associated with each of the web servers to determine

if a predetermined condition exits at any of the web servers, then

Redirecting by those web servers at least one web page request from each of those

web servers to other web servers, and

reducing distribution of web page requests to those redirecting web servers until the

monitoring indicates absence of the predetermined condition at those web servers

Hu is silent regarding: monitored requests include web page requests queue.

Nonetheless, the predetermined condition comprises request queue delay length

greater than a predetermined number would have been an obvious modification to Hu's

system as evidenced by Cieslak. Cieslak, discloses performance characteristics or QOS

parameters might be measured in a number of different ways such as measuring server

response time to determine the status of the servers or how the servers are loaded (see

the abstract and col. 5, lines 15-30). Additionally, Hu teaches the monitoring module can

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requests to other servers Therefore, it would have been obvious to one having ordinary

skill in the art at the time of the invention to utilize QOS parameters such determining

number of requests in the queue delay as suggested by Cieslak in order to provide

dynamic redirection and overload protection.

In considering claims 28, 30, 32 Although Hu, disclose substantial features of the

claimed invention as discussed above with respect to claims 27, 29 and 31,

Hu, is silent regarding: wherein the predetermined condition comprises one or more of a

web page queue length greater than a length threshold and a web page queue delay

being greater than a delay threshold.

Nonetheless, the predetermined condition comprises request queue delay length

greater than a predetermined number would have been an obvious modification to Hu's

system as evidenced by Cieslak. Cieslak, discloses performance characteristics or QOS

parameters might be measured in a number of different ways such as measuring server

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Hu, would have been motivated to check if the request queue delay length of the server

is greater than a predetermined number or certain threshold to dynamically redirect

requests to other servers Therefore, it would have been obvious to one having ordinary

skill in the art at the time of the invention to utilize QOS parameters such determining

number of requests in the queue delay as suggested by Cieslak in order to provide

dynamic redirection and overload protection.

CONCLUSION

8.   The prior art made of record and not relied upon is considered pertinent to the

applicant's disclosure.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Salad E. Abdullahi whose telephone number is 571-272-

4009. The examiner can normally be reached on 8:30 - 5:00. If attempts to reach the

examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can

be reached on 571-272-4001. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

10.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Abdullahi Salad
1/5/2005

ABDULLAHI SALAD
PRIMARY EXAMINER